

AMENDED IN SENATE JULY 7, 2005

AMENDED IN SENATE JUNE 21, 2005

AMENDED IN ASSEMBLY JUNE 1, 2005

AMENDED IN ASSEMBLY APRIL 11, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 336

**Introduced by Assembly Member Huff
(Coauthors: Assembly Members Garcia and Plescia)**

February 10, 2005

An act to amend Section 11366.8 of the Health and Safety Code, relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

AB 336, as amended, Huff. Controlled substances.

Existing law makes it a crime for any person to possess, use, or control a false compartment with the intent to store, conceal, smuggle, or transport a controlled substance within the false compartment.

This bill would revise this provision to broaden the scope of its application by providing in addition that it is a crime for any person to possess, use, or control a false compartment with the intent to store, conceal, smuggle, or transport any unlawfully possessed firearm or destructive device, as defined, or specified currency, money, negotiable instruments, or securities valued at \$5,000 or more intended to be exchanged for an unlawful purchase of controlled substances or that are the proceeds of an unlawful ~~purchase~~ *sale* of controlled substances, within the false compartment. By creating new crimes or expanding the scope of existing crimes, this bill would impose a state-mandated local program upon local government.

This bill would further provide that *any vehicle driven by a person charged with violating these provisions shall be seized and impounded as evidence and that no vehicle belonging to a defendant convicted under this provision containing a false compartment shall be returned to that defendant the vehicle's registered owner or otherwise disposed of until the false compartment is rendered unusable, as specified, and the registered owner, except as specified, pays all towing charges, storage charges related to impoundment, costs associated with disabling of the false compartment, and any applicable administrative charge, as specified, except if unless the vehicle is being sold for scrap metal.* The bill would provide for the release of the impounded vehicle to a person having a community property interest in that vehicle under specified conditions. By imposing new duties on local peace officers, this bill would impose a state-mandated local program upon state government.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 11366.8 of the Health and Safety Code
- 2 is amended to read:
- 3 11366.8. (a) Every person who possesses, uses, or controls a
- 4 false compartment with the intent to store, conceal, smuggle, or
- 5 transport a controlled substance, any unlawfully possessed
- 6 firearm or destructive device, or at least five thousand dollars
- 7 (\$5,000) in currency, money, negotiable instruments, or
- 8 securities that are intended to be exchanged for an unlawful
- 9 purchase of a controlled substance or are the proceeds from an
- 10 unlawful purchase of a controlled substance within the false

1 compartment shall be punished by imprisonment in a county jail
2 for a term of imprisonment not to exceed one year or in the state
3 prison.

4 (b) Every person who designs, constructs, builds, alters, or
5 fabricates a false compartment for, or installs or attaches a false
6 compartment to, a vehicle with the intent to store, conceal,
7 smuggle, or transport a controlled substance, any unlawfully
8 possessed firearm or destructive device, or at least five thousand
9 dollars (\$5,000) in currency, money, negotiable instruments, or
10 securities that are intended to be exchanged for an unlawful
11 purchase of a controlled substance or are the proceeds from an
12 unlawful—~~purchase~~ *sale* of a controlled substance shall be
13 punished by imprisonment in the state prison for 16 months or
14 two or three years.

15 (c) The term “vehicle” means any of the following vehicles
16 without regard to whether the vehicles are private or commercial,
17 including, but not limited to, cars, trucks, buses, aircraft, boats,
18 ships, yachts, and vessels.

19 (d) The term “false compartment” means any box, container,
20 space, or enclosure that is intended for use or designed for use to
21 conceal, hide, or otherwise prevent discovery of any controlled
22 substance, any unlawfully possessed firearm or destructive
23 device, or at least five thousand dollars (\$5,000) in currency,
24 money, negotiable instruments, or securities that are intended to
25 be exchanged for an unlawful purchase of a controlled substance
26 or are the proceeds from an unlawful purchase of a controlled
27 substance within or attached to a vehicle, including, but not
28 limited to, any of the following:

29 (1) False, altered, or modified fuel tanks.

30 (2) Original factory equipment of a vehicle that is modified,
31 altered, or changed.

32 (3) Compartment, space, or box that is added to, or fabricated,
33 made, or created from, existing compartments, spaces, or boxes
34 within a vehicle.

35 (e) The term “firearm” means any device, designed to be used
36 as a weapon, from which is expelled through a barrel a projectile
37 by the force of any explosion or other form of combustion; the
38 term “firearm” includes the frame or receiver of the weapon; the
39 term “firearm” also shall include any rocket, rocket propelled
40 projectile launcher, or similar device containing any explosive or

1 incendiary material whether or not the device is designed for
2 emergency or distress signaling purposes. The term “firearm”
3 does not include an unloaded firearm that is defined as an
4 “antique firearm” in Section 921(a)(16) of Title 18 of the United
5 States Code.

6 (f) The term “destructive device” is defined in Section 12301
7 of the Penal Code.

8 (g) *Any vehicle driven by a person charged with violating this*
9 *section shall be seized and impounded as evidence.*

10 ~~(g)~~

11 (h) (1) No vehicle containing a false compartment shall be
12 returned to the vehicle’s *registered* owner or otherwise disposed
13 of, unless the vehicle is being sold for scrap metal, until the false
14 compartment is rendered unusable *and the registered owner pays*
15 *all towing charges, storage charges related to impoundment,*
16 *costs associated with disabling of the false compartment, and any*
17 *applicable administrative charges.*

18 (2) *If a vehicle was stolen from the registered owner and the*
19 *registered owner reported the theft to law enforcement, the*
20 *registered owner shall not be liable for the costs of disabling the*
21 *false compartment or for any administrative costs, regardless of*
22 *whether or not the defendant was found guilty of the crime*
23 *charged under this section.* ~~No~~

24 (i) No false compartment shall be rendered unusable until
25 either a defendant charged with violating this section enters a
26 plea of guilty; *or nolo contendere, or until a determination of*
27 *guilt has been entered by a judge or jury that a defendant is guilty*
28 *of violating this section.*

29 ~~(h)~~

30 (j) (1) If there is a community property interest in the vehicle
31 impounded pursuant to this section, owned at the time of
32 impoundment by a person other than the driver, and the vehicle is
33 the only vehicle available to the driver’s immediate family that
34 may be operated with a class C driver’s license, the vehicle shall
35 be released to the community property interest owner upon
36 compliance with all of the following requirements:

37 (A) The community property interest owner requests release of
38 the vehicle and the owner of the community property interest
39 submits proof of that interest.

1 (B) The community property interest owner submits proof that
2 he or she, or an authorized driver, is properly licensed and that
3 the impounded vehicle is properly registered.

4 (C) All towing, storage charges related to the impoundment,
5 and any costs related to the disabling of a false compartment, if
6 applicable, and any administrative charges, are paid.

7 (2) Before releasing a vehicle to the community property
8 interest owner or ~~their~~ *his or her* authorized driver, a law
9 enforcement agency shall render the false compartment unusable
10 if doing so does not result in the vehicle being in violation of any
11 provision of the Vehicle Code, including, but not limited to,
12 Section 24002 of the Vehicle Code, relating to vehicles that may
13 be lawfully operated with a class C driver's license.

14 SEC. 2. No reimbursement is required by this act pursuant to
15 Section 6 of Article XIII B of the California Constitution for
16 certain costs that may be incurred by a local agency or school
17 district because, in that regard, this act creates a new crime or
18 infraction, eliminates a crime or infraction, or changes the
19 penalty for a crime or infraction, within the meaning of Section
20 17556 of the Government Code, or changes the definition of a
21 crime within the meaning of Section 6 of Article XIII B of the
22 California Constitution.

23 However, if the Commission on State Mandates determines
24 that this act contains other costs mandated by the state,
25 reimbursement to local agencies and school districts for those
26 costs shall be made pursuant to Part 7 (commencing with Section
27 17500) of Division 4 of Title 2 of the Government Code.